

**Senate Bill No. 356**

(By Senators D. Hall, Yost and Gaunch)

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[Introduced January 29, 2015; referred to the Committee on Transportation and Infrastructure;

and then to the Committee on the Judiciary.]

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**FISCAL  
NOTE**

A BILL to amend and reenact §17A-10-3b of the Code of West Virginia, 1931, as amended; to amend and reenact §17C-15-44 of said code; and to amend said code by adding thereto a new section, designated §17C-15-44a, all relating to motorcycle safety and equipment; increasing motorcycle safety fee; providing for motorcycle helmet exemption for motorcyclists meeting certain requirements; providing for helmet exemption sticker and fees; penalties; and providing for rulemaking.

*Be it enacted by the Legislature of West Virginia:*

That §17A-10-3b of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §17C-15-44 of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §17C-15-44a, all to read as follows:

**CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION,  
CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.**

**ARTICLE 10. FEES FOR REGISTRATION, LICENSING, ETC.**

1 **§17A-10-3b. Motorcycle safety fee.**

2           Upon the annual registration of any motorcycle, the division shall collect a motorcycle safety  
3 fee of ~~\$6.50~~ \$10, in addition to the registration fee specified in section three of this article. The  
4 division shall deposit ~~\$5.50~~ \$9 of the motorcycle safety fee into the State Treasury and credit the  
5 moneys to the Motorcycle Safety Fund. The division shall deposit the remaining \$1 of the  
6 motorcycle safety fee into the State Treasury and credit the moneys collected to the Motorcycle  
7 License Examination Fund established in section seven-c, article two, chapter seventeen-b of this  
8 code.

9           **CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.**

10 **ARTICLE 15. EQUIPMENT.**

11 **§17C-15-44. Safety equipment and requirements for motorcyclists, motorcycles, motor-driven**  
12 **cycles and mopeds; motorcycle safety standards and education committee.**

13           (a) No person shall operate or be a passenger on any motorcycle or motor-driven cycle unless  
14 the person is wearing securely fastened on his or her head by either a neck or chin strap a protective  
15 helmet designed to deflect blows, resist penetration and spread impact forces, except as otherwise  
16 provided in section forty-four-a of this article. Any helmet worn by an operator or passenger shall  
17 meet the current performance specifications established by the American National Standards Institute  
18 Standard, Z 90.1, the United States Department of Transportation Federal Motor Vehicle Safety  
19 Standard No. 218 or Snell Safety Standards for Protective Headgear for Vehicle Users.

20           (b) No person shall operate or be a passenger on any motorcycle or motor-driven cycle unless  
21 the person is wearing safety, shatter-resistant eyeglasses (excluding contact lenses), or eye goggles  
22 or face shield that complies with the performance specifications established by the American

1 National Standards Institute for Head, Eye and Respiratory Protection, Z 2.1. In addition, if any  
2 motorcycle, motor-driven cycle or moped is equipped with a windshield or windscreen, the  
3 windshield or windscreen shall be constructed of safety, shatter-resistant material that complies with  
4 the performance specifications established by Department of Transportation Federal Motor Vehicle  
5 Safety Standard No. 205 and American National Standards Institute, Safety Glazing Materials for  
6 Glazing Motor Vehicles Operated on Land Highways, Standard Z 26.1.

7 (c) No person shall operate a motorcycle, motor-driven cycle or moped on which the  
8 handlebars or grips are more than fifteen inches higher than the uppermost part of the operator's seat  
9 when the seat is not depressed in any manner.

10 (d) A person operating a motorcycle, motor-driven cycle or moped shall ride in a seated  
11 position facing forward and only upon a permanent operator's seat attached to the vehicle. No  
12 operator shall carry any other person nor shall any other person ride on the vehicle unless the vehicle  
13 is designed to carry more than one person, in which event a passenger may ride behind the operator  
14 upon the permanent operator's seat if it is designed for two persons, or upon another seat firmly  
15 attached to the vehicle to the rear of the operator's seat and equipped with footrests designed and  
16 located for use by the passenger or in a sidecar firmly attached to the vehicle. No person shall ride  
17 side saddle on a seat. An operator may carry as many passengers as there are seats and footrests to  
18 accommodate those passengers. Additional passengers may be carried in a factory produced sidecar  
19 provided that there is one passenger per seat. Passengers riding in a sidecar shall be restrained by  
20 safety belts.

21 (e) Every motorcycle, motor-driven cycle and moped shall be equipped with a rearview  
22 mirror affixed to the handlebars or fairings and adjusted so that the operator shall have a clear view

1 of the road and condition of traffic behind him or her for a distance of at least two hundred feet.

2 ~~(f) There is hereby created a six member motorcycle safety and education committee~~  
 3 ~~consisting of: the superintendent of the State Police or a designee; the Commissioner of Motor~~  
 4 ~~Vehicles or a designee; the director of the West Virginia safety council or a designee; a licensed~~  
 5 ~~motorcycle operator; an owner of a motorcycle dealership; and a supplier of aftermarket~~  
 6 ~~nonfranchised motorcycle supplies. The nongovernmental representatives shall be appointed by the~~  
 7 ~~Governor with the advice and consent of the Senate, shall serve without compensation, and the terms~~  
 8 ~~shall be for three years, except that as to the members first appointed, one shall be appointed for a~~  
 9 ~~term of one year, one shall be appointed for a term of two years and one shall be appointed for a term~~  
 10 ~~of three years. Members may be reappointed to the committee.~~

11 ~~The committee shall continue to exist pursuant to the provisions of article ten, chapter four~~  
 12 ~~of this code until July 1, 1999, to allow for the completion of a preliminary performance review by~~  
 13 ~~the joint committee on government operations.~~

14 ~~The committee is hereby authorized to recommend to the superintendent of public safety~~  
 15 ~~types and makes of protective helmets, eye protection devices and equipment offered for sale,~~  
 16 ~~purchased or used by any person. The committee is authorized to make recommendations to the~~  
 17 ~~Commissioner of Motor Vehicles regarding the use of the moneys in the motorcycle safety fund~~  
 18 ~~created under section seven, article one-d, chapter seventeen-b of this code.~~

19 **§17C-15-44a. Motorcycle helmet exemptions; requirements; fees; penalties; and rules.**

20 (a) Effective July 1, 2016, a person operating a motorcycle or motor-driven cycle is exempt  
 21 from wearing a motorcycle helmet as required in section forty-four of this article if the person:

22 (1) Is at least twenty-one years old;

1 (2) Has held a motorcycle operator’s license or endorsement for a minimum of two years;

2 (3) Has completed a motorcycle safety training course as provided in sections two and three,  
3 article one-d, chapter seventeen-b of this code or has completed a comparable motorcycle safety  
4 training course approved by the Division of Motor Vehicles; and

5 (4) Is covered by a health insurance plan providing the person with at least \$10,000 in  
6 medical benefits for injuries incurred as a result of an accident while operating or riding on a  
7 motorcycle.

8 (b) A person who is at least twenty-one years old and holds a motorcycle operator’s license  
9 or endorsement on or before June 30, 2016, is eligible for a “grandfather” exception to subsection  
10 (a) in which the two-year minimum operator’s license or endorsement requirement set forth in  
11 subdivision (2), subsection (a) of this section and the safety training course requirement set forth in  
12 subdivision (3) of that subsection are waived if the person complies with the health insurance  
13 requirement set forth in subdivision (4) of that subsection.

14 (c) Effective July 1, 2016, a person riding as a passenger on a motorcycle or motor-driven  
15 cycle is exempt from wearing a motorcycle helmet as required in section forty-four of this article if  
16 the person:

17 (1) Is at least twenty-one years old; and

18 (2) Is covered by a health insurance plan providing the person with at least \$10,000 in  
19 medical benefits for injuries incurred as a result of an accident while operating or riding on a  
20 motorcycle.

21 (d) For a fee of \$5, the Division of Motor Vehicles shall issue a serialized, nontransferable  
22 “helmet exception” operator sticker or passenger sticker to a motorcycle or motor-driven cycle

1 operator or passenger demonstrating compliance with the requirements set forth in subsection (a),  
2 (b) or (c) of this section. A “helmet exemption” sticker issued pursuant to this section expires on  
3 the second anniversary of the date of issuance.

4 (e) A person operating or riding as a passenger on a motorcycle or motor-driven cycle without  
5 a helmet shall display a “helmet exemption” sticker issued pursuant to subsection (d) of this section  
6 on the license plate of the motorcycle or the license plate mounting bracket. A person displaying a  
7 “helmet exemption” sticker in this manner is presumed to be in compliance with subsection (a),(b)  
8 or (c) of this section.

9 (f) For purposes of this section, "health insurance plan" means an individual, group, blanket,  
10 or franchise insurance policy, insurance agreement, evidence of coverage, group hospital services  
11 contract, health maintenance organization membership, or employee benefit plan that provides  
12 benefits for health care services or for medical or surgical expenses incurred as a result of an  
13 accident.

14 (g) A person operating or riding as a passenger on a motorcycle or motor-driven cycle  
15 without a helmet who is not in compliance with this section is guilty of a misdemeanor and, upon  
16 conviction thereof, shall be fined not less than \$200 nor more than \$500; and upon a second or  
17 subsequent conviction shall be fined not less than \$500 nor more than \$1,000. An arresting officer  
18 may impound a motorcycle operated by a person violating this section unless the person can lawfully  
19 operate the motorcycle by then wearing a helmet or by otherwise demonstrating compliance with this  
20 section.

21 (h) The Commissioner of the Division of Motor Vehicles shall propose rules in accordance  
22 with article three, chapter twenty-nine-a of this code to implement this section.

NOTE: The purpose of this bill is to provide a motorcycle helmet exemption to motorcyclists who meet certain safety and health insurance requirements. This bill would allow West Virginia to compete for motorcycle tourism dollars on a more equal footing with neighboring states which do not require motorcyclists to wear helmets. This bill sets age, experience, safety training and health insurance requirements for motorcycle operators to qualify for a helmet exemption, and sets age and health insurance requirements for motorcycle passengers to qualify for a helmet exemption. The bill creates a helmet exemption sticker to be displayed prominently on the motorcycle to verify compliance with helmet exemption provisions, and provides penalties for violations of helmet exemption provisions. The bill also increases the motorcycle safety awareness fee from \$6.50 to \$10 to provide additional funding for motorcycle safety training programs. The bill additionally deletes outdated and duplicate language referencing the Motorcycle Safety Awareness Board established in §17B-1D-8.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§17C-15-44a is new; therefore, strike-throughs and underscoring have been omitted.